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the

AN ACT

relating to determinations of paternity; creating an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 160.302, Family Code, is amended to read as follows:

(a) An acknowledgment of paternity must:

(1) be in a record;

(2) be signed, or otherwise authenticated, under penalty of perjury by the mother and the man seeking to establish paternity;

(3) state that the child whose paternity is being acknowledged:

(A) does not have a presumed father or has a presumed father whose full name is stated; and

(B) does not have another acknowledged or adjudicated father;

(4) state whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the testing; and

(5) state that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of the paternity of the child and that a challenge to the acknowledgment is permitted only under limited circumstances [~~and is barred after four years~~].

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S.B. No. 502

SECTION 2. Section 160.306, Family Code, is amended to read as follows:

Sec. 160.306. FILING FEE NOT REQUIRED. The bureau of vital statistics may not charge a fee for filing:

- (1) an acknowledgment of paternity;
- (2) a ~~[or]~~ denial of paternity; or
- (3) a rescission of an acknowledgment of paternity or denial of paternity.

SECTION 3. Section 160.307, Family Code, is amended to read as follows:

Sec. 160.307. PROCEDURES ~~[PROCEEDING]~~ FOR RESCISSION. (a) A signatory may rescind an acknowledgment of paternity or denial of paternity as provided by this section ~~[by commencing a proceeding to rescind]~~ before the earlier of:

- (1) the 60th day after the effective date of the acknowledgment or denial, as provided by Section 160.304; or
- (2) the date ~~[of the first hearing in]~~ a proceeding to which the signatory is a party is initiated before a court to adjudicate an issue relating to the child, including a proceeding that establishes child support.

(b) A signatory seeking to rescind an acknowledgment of paternity or denial of paternity must file with the bureau of vital statistics a completed rescission, on the form prescribed under Section 160.312, in which the signatory declares under penalty of perjury that:

- (1) as of the date the rescission is filed, a proceeding has not been held affecting the child identified in the

acknowledgment of paternity or denial of paternity, including a proceeding to establish child support;

(2) a copy of the completed rescission was sent by certified or registered mail, return receipt requested, to:

(A) if the rescission is of an acknowledgment of paternity, the other signatory of the acknowledgment of paternity and the signatory of any related denial of paternity; or

(B) if the rescission is of a denial of paternity, the signatories of the related acknowledgment of paternity; and

(3) if a signatory to the acknowledgment of paternity or denial of paternity is receiving services from the Title IV-D agency, a copy of the completed rescission was sent by certified or registered mail to the Title IV-D agency.

(c) On receipt of a completed rescission, the bureau of vital statistics shall void the acknowledgment of paternity or denial of paternity affected by the rescission and amend the birth record of the child, if appropriate.

(d) Any party affected by the rescission, including the Title IV-D agency, may contest the rescission by bringing a proceeding under Subchapter G to adjudicate the parentage of the child.

SECTION 4. Subsections (a) and (c), Section 160.308, Family Code, are amended to read as follows:

(a) After the period for rescission under Section 160.307 has expired, a signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the

acknowledgment or denial only on the basis of fraud, duress, or material mistake of fact. The proceeding may ~~[must]~~ be commenced at any time before the issuance of an order affecting the child identified in ~~[fourth anniversary of the date]~~ the acknowledgment or denial, including an order relating to support of the child ~~[is filed with the bureau of vital statistics unless the signatory was a minor on the date the signatory executed the acknowledgment or denial. If the signatory was a minor on the date the signatory executed the acknowledgment or denial, the proceeding must be commenced before the earlier of the fourth anniversary of the date of:~~

~~[(1) the signatory's 18th birthday, or~~

~~[(2) the removal of the signatory's disabilities of minority by court order, marriage, or by other operation of law].~~

(c) Notwithstanding any other provision of this chapter, a collateral attack on an acknowledgment of paternity signed under this chapter may not be maintained after the issuance of an order affecting the child identified in the acknowledgment, including an order relating to support of the child ~~[fourth anniversary of the date the acknowledgment of paternity is filed with the bureau of vital statistics unless the signatory was a minor on the date the signatory executed the acknowledgment. If the signatory was a minor on the date the signatory executed the acknowledgment, a collateral attack on the acknowledgment of paternity may not be maintained after the earlier of the fourth anniversary of the date of:~~

~~[(1) the signatory's 18th birthday, or~~

1           ~~[(2) the removal of the signatory's disabilities of~~  
2 ~~minority by court order, marriage, or by other operation of law].~~

3           SECTION 5. Section 160.309, Family Code, is amended to read  
4 as follows:

5           Sec. 160.309. PROCEDURE FOR ~~[RESCISSION OR]~~ CHALLENGE. (a)  
6 Each signatory to an acknowledgment of paternity and any related  
7 denial of paternity must be made a party to a proceeding to ~~[rescind~~  
8 ~~or]~~ challenge the acknowledgment or denial of paternity.

9           (b) For purposes of ~~[the rescission of or]~~ a challenge to an  
10 acknowledgment of paternity or denial of paternity, a signatory  
11 submits to the personal jurisdiction of this state by signing the  
12 acknowledgment or denial. The jurisdiction is effective on the  
13 filing of the document with the bureau of vital statistics.

14           (c) Except for good cause shown, while a proceeding is  
15 pending to ~~[rescind or]~~ challenge an acknowledgment of paternity or  
16 a denial of paternity, the court may not suspend the legal  
17 responsibilities of a signatory arising from the acknowledgment,  
18 including the duty to pay child support.

19           (d) A proceeding to ~~[rescind or to]~~ challenge an  
20 acknowledgment of paternity or a denial of paternity shall be  
21 conducted in the same manner as a proceeding to adjudicate  
22 parentage under Subchapter G.

23           (e) At the conclusion of a proceeding to ~~[rescind or]~~  
24 challenge an acknowledgment of paternity or a denial of paternity,  
25 the court shall order the bureau of vital statistics to amend the  
26 birth record of the child, if appropriate.

27           SECTION 6. Section 160.312, Family Code, is amended to read

1 as follows:

2 Sec. 160.312. FORMS [~~FOR ACKNOWLEDGMENT AND DENIAL OF~~  
3 ~~PATERNITY~~]. (a) To facilitate compliance with this subchapter,  
4 the bureau of vital statistics shall prescribe forms for the:

- 5 (1) acknowledgment of paternity;  
6 (2) [~~and the~~] denial of paternity; and  
7 (3) rescission of an acknowledgment or denial of  
8 paternity.

9 (b) A valid acknowledgment of paternity, [~~or~~] denial of  
10 paternity, or rescission of an acknowledgment or denial of  
11 paternity is not affected by a later modification of the prescribed  
12 form.

13 SECTION 7. Subchapter F, Chapter 160, Family Code, is  
14 amended by adding Section 160.512 to read as follows:

15 Sec. 160.512. OFFENSE: FALSIFICATION OF SPECIMEN. (a) A  
16 person commits an offense if the person alters, destroys, conceals,  
17 fabricates, or falsifies genetic evidence in a proceeding to  
18 adjudicate parentage, including inducing another person to provide  
19 a specimen with the intent to affect the outcome of the proceeding.

20 (b) An offense under this section is a felony of the third  
21 degree.

22 (c) An order excluding a man as the biological father of a  
23 child based on genetic evidence shown to be altered, fabricated, or  
24 falsified is void and unenforceable.

25 SECTION 8. Subsection (b), Section 160.607, Family Code, is  
26 amended to read as follows:

27 (b) A proceeding seeking to adjudicate the parentage of a

1 child having a [~~disprove the father-child relationship between a~~  
2 ~~child and the child's~~] presumed father may be maintained at any time  
3 if the court determines that:

4 (1) the presumed father and the mother of the child did  
5 not live together or engage in sexual intercourse with each other  
6 during the probable time of conception; or [~~and~~]

7 (2) the presumed father was precluded from commencing  
8 a proceeding to adjudicate the parentage of the child before the  
9 expiration of the time prescribed by Subsection (a) because of the  
10 mistaken belief that he was the child's biological father based on  
11 misrepresentations that led him to that conclusion [~~never~~  
12 ~~represented to others that the child was his own~~].

13 SECTION 9. Subsection (f), Section 160.608, Family Code, is  
14 amended to read as follows:

15 (f) This section applies to a proceeding to [~~rescind or~~  
16 challenge an acknowledgment of paternity or a denial of paternity  
17 as provided by Section 160.309(d)].

18 SECTION 10. Subsection (a), Section 160.609, Family Code,  
19 is amended to read as follows:

20 (a) If a child has an acknowledged father, a signatory to  
21 the acknowledgment or denial of paternity may commence a proceeding  
22 under this chapter [~~seeking to rescind the acknowledgment or denial~~  
23 ~~or~~] to challenge the paternity of the child only within the time  
24 allowed under Section [~~160.307 or~~] 160.308.

25 SECTION 11. (a) The changes in law made by this Act with  
26 respect to an acknowledgment or denial of paternity apply only to an  
27 acknowledgment or denial of paternity that becomes effective on or

1 after the effective date of this Act. An acknowledgment or denial  
2 of paternity that became effective before the effective date of  
3 this Act is governed by the law in effect at the time the  
4 acknowledgment or denial of paternity became effective, and the  
5 former law is continued in effect for that purpose.

6 (b) The changes in law made by this Act with respect to a  
7 proceeding to adjudicate parentage apply only to a proceeding that  
8 is commenced on or after the effective date of this Act. A  
9 proceeding to adjudicate parentage commenced before the effective  
10 date of this Act is governed by the law in effect on the date the  
11 proceeding was commenced, and the former law is continued in effect  
12 for that purpose.

13 SECTION 12. This Act takes effect September 1, 2011.



S.B. No. 502

David Dewhurst

President of the Senate

Joe Straus

Speaker of the House

I hereby certify that S.B. No. 502 passed the Senate on March 24, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2011, by the following vote: Yeas 31, Nays 0 \_\_\_\_\_

Patry Spaw

Secretary of the Senate

I hereby certify that S.B. No. 502 passed the House, with amendment, on May 20, 2011, by the following vote: Yeas 149, Nays 0, one present not voting \_\_\_\_\_

Robert Haney

Chief Clerk of the House

Approved:

17 JUN '11

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

4pm O'CLOCK

JUN 17 2011

Debra Ralston

Secretary of State